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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,558	01/16/2004	Daniel B. McGoldrick	84,313	5969

38092 7590 03/21/2005

OFFICE OF COUNSEL, CODE 004  
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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/758,558

Applicant(s)

MCGOLDRICK, DANIEL B.

Examiner

Yewebdar T Tadesse

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/16/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of group I in the reply filed on 03/10/2005 is acknowledged. The traversal is on the ground(s) that the apparatus claims if ultimately allowed would require rejoinder of the restriction requirement under Section 821.04. This is not found persuasive because this case is not yet in condition for allowance and as shown in the Election/Restrictions requirement mailed on 02/23/2005 (see page 2, paragraph 2) the two inventions (groups I & II) are patentably distinct invention whose examination together would place an undue burden on examiner. The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 03/10/2005.

It is noted that applicant has the right to request for rejoinder of withdrawn claims, if the apparatus claim is in condition for allowance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Estebanez et al (US 4,048,956).

As to claim 1, Estebanez et al discloses (see claim 1, Figs 1 and 3) an apparatus for treatment of target surface by coating thereof applied from an ejection device (spraying head 1), comprising guidance means (item B) on the target surface (item K) for establishing linear path of movement (B is sliding linearly relative to A) in spaced relation to the target surface; support means (item D) on which the ejection device (spraying head 1) is positioned for ejection of the coating therefrom; and selectively controlled mounting means (item C) for positioning of the support means (item D) at different location along the linear paths movement (adjusted linearly) on the guidance means (item B) from which the ejection of the coating onto the target surface (item K) is effected from the ejection device (spraying head 1) during the treatment of the target surface.

With respect to claim 2, in Estebanez et al (see column 1, lines 11-20) the ejection device (spraying head 1) is a liquid paint applicator and the target surface is capable of being a ship hull.

As to claim 3, Estebanez et al further discloses (see Fig 3) the guidance means including horizontal track rails (item G with 22) on the target and a vertical guide means (item B) slidably received in the track rails (G) for displacement of the support means (item D) along the linear paths of movement to different location (linearly adjusted).

As to claim 4, Estebanez et al (see Figs 3) further discloses the support means includes a support rack (item D) mounted by the vertical guide means (item A) in perpendicular relation to the target surface.

With respect to claim 5, Estebanez et al's apparatus is used for treatment of the target surface involving removal (cleaning) of the paint by the ejection device (see column 1, lines 11-20).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Yewebdar T. Tadesse*

*ca Fiorilla*  
CHRIS FIORILLA  
SUPERVISORY PATENT EXAMINER  
Au 1734